

JUDGE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THOMAS TURNER,

Defendant.

No. CR05-0355JCC

ORDER ON MOTION TO
CONTINUE TRIAL DATE

This matter, having come before the Court on Turner's Motion to continue the trial date (Dkt. 40), and the Court having considered the papers filed by the parties, together with the balance of the records and files herein, this Court now finds as follows:

The current pretrial motions cut-off date is August 21, 2006 and the trial date is October 23, 2006. Thomas Turner was indicted September 25, 2005 for seven criminal counts of making false statements to outside auditors from Ernst & Young (E & Y) for Metropolitan Mortgage and Summit Securities. Dkt 1, Indictment. Mr. David Vance Marshall represented Mr. Turner at arraignment. Because funds to hire counsel from a Director's and Officer's insurance policy were not immediately available, Mr. Marshall moved to withdraw and have CJA counsel appointed for Mr. Turner. *See* Dkt. 11, Motion

1 to Withdraw and Dkt. 12, Declaration of David Vance Marshall in Support of Motion for
2 Leave to Withdraw. On November 9, 2005, Ms. Suzanne Lee Elliott was appointed to
3 represent Mr. Turner. *See* Dkt. Nos. 25 and 26, Minute Order, referencing November 9,
4 2005 CJA Appointment Order. On May 17, 2006, The Honorable Fred Van Sickle in the
5 Eastern District of Washington entered an order making insurance funds available to Mr.
6 Turner for his defense. Mr. Turner immediately notified this Court of the status change,
7 and that he may no longer be considered “indigent” for purposes of CJA appointment
8 (though he remains unemployed). On May 31, 2006 Magistrate Judge James Donohue
9 concluded that Mr. Turner is no longer entitled to appointment of counsel in this matter.
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11 Mr. Turner now seeks to continue the trial date so that he can re-hire Mr. Marshall
12 as co-counsel to Ms. Elliott. He has filed a waiver of his right to a speedy trial up to and
13 through June 30, 2007. *See* Dkt. 39. Mr. Marshall has submitted a declaration setting
14 forth the reasons why he would not be prepared for trial in this matter until April 2007,
15 including facts regarding his schedule, his prior commitments to clients and the complexity
16 of this case.

17 If this Court were to deny the continuance, Mr. Marshall would be unable to
18 appear and defend Mr. Turner. A continuance is necessary to ensure Mr. Turner’s Sixth
19 Amendment right to retain counsel of his choice and is further justified under 18 U.S.C. §§
20 3161(h)(8)(B)(i) and (ii). This is a complex case and denial of the continuance would
21 unreasonably deny Defendant reasonable time to consult with counsel and prepare for trial.
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23 The proposed continuance does not appear to prejudice the Government. Thus,
24 this Court finds that the interests of the public and the parties in a speedy trial are
25 outweighed by the end of justice within the meaning of 18 U.S.C. § 3161(h)(8)(A).

1 Accordingly, it is hereby ordered that the pretrial motions cut-off date is extended
2 to **February 15, 2007** and the trial date is continued to **April 9, 2007**. The time between
3 the date of this Order and the new trial date shall be excluded under the Speedy Trial Act
4 pursuant to 18 U.S.C. § 3161(h)(8)(A) and §§ 3161(h)(8)(B)(i) and (ii).

5 SO ORDERED this 18th day of July, 2006.

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9 John C. Coughenour
10 United States District Judge
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